IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 1714 (S/B)02

Bhairav Datt Joshi S/o late Mr. Sona Ram,
R/o Near Post Office, Uttarkashi. ----- **Petitioner.**

Vs.

1. Municipal Board Uttarkashi through,
   Sub Divisional Magistrate/Officer in-charge,
   District Uttarkashi,
2. Administrator/District Magistrate,
   Municipal Board, Uttarkashi, Distt-Uttarkashi,
3. Executive Officer, Municipal Board,
   District Uttarkashi. ----- **Respondent.**

Sri Sharad Sharma, learned counsel for the petitioner.
Sri Rajeev S. Bisht, learned counsel for respondents.

Hon'ble M.M.Ghildiyal, J.

Heard Sri Sharad Sharma, learned counsel for the petitioner and Sri Rajeev S. Bisht, learned counsel for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. Issue a suitable order or direction in the nature of certiorari quashing the order dated 28.10.2002 passed by respondent no.2 (annexure no.6),

ii. Issue a writ, order or direction in the nature of mandamus commanding the respondents to regularize the services of the petitioner on the post of Refuse Collector/Driver,

Iii Issue a writ, order or direction in the nature of mandamus commanding the respondents to permit the

petitioner to work on the post of Refuge Collector/ Driver on which he has working since 1997 and to pay regular salary,

iv. Issue any other suitable writ, order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case,

v Award the cost of the petition to the petitioner.

On 28th October 2002, the Executive officer, Nagar Palika Parishad, Uttarkashi passed order that the temporarily arrangement by engaging the petitioner against the post of Sri Jyoti Prakash Uniyal is not possible to continue as Sri Jyoti Prakash Uniyal after his deputation to District Urban Development Agency has been repatriated to Nagar Palika Parishad, Uttarkashi therefore, the petitioner cannot be absorbed on the post on which he was allowed to work as daily wager.

The facts, in brief, are that one Sri Jyoti Prakash Uniyal who was posted as Nieb Rajaswa Moharir in Nagar Palika Parishad, Uttarkashi was sent on deputation to District Urban Development Agency, however his lien remained with the Nagar Palika Parishad, Uttarkashi. After repatriation of Sri Jyoti Prakash Uniyal from district Urban Development Agency to Nagar Palika Parishad, Uttarkashi, the services of the petitioner were terminated.

It has come in the counter affidavit that the petitioner was firstly engaged against the post of Sri Jyoti Prakash, that too on daily wage basis. After repatriation and joining of Sri Jyoti Prakash on his post, the petitioner has no right to continue on that post.

Learned counsel for the petitioner has submitted that the petitioner was not engaged against the post which was fallen vacant due to deputation of Sri Jyoti Prakash Uniyal from Nagar Palika Parishad Uttarkashi to District Urban Development Agency. It is submitted that the petitioner was never engaged on daily wage basis; in fact, he was working as Refuse Collector Since 1997 on daily wage basis. In the writ petition, the petitioner has neither taken plea that the petitioner was provided appointment on daily wage basis on the post of - Refuse Collector nor an iota of version is there as to whether any post of Refuse Collector was sanctioned in the Nagar Palika Parishad or not. On the contrary, in para-16 of the counter affidavit, the respondents have stated that the post of Refuse Collector has not been sanctioned by the Govt., therefore the petitioner who was engaged on contractual basis, cannot be regularized in absence of sanctioned post.

In any case, the petitioner was appointed on daily wage basis and he has no right to continue. I do not find any illegality or perversity in the order impugned. The petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

(M.M.Ghildiyal, J.)

August 14, 2007:
NCM: